

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. <b>CV 10-05210 PJH</b>	DATE FILED <b>11/17/2010</b>	U.S. DISTRICT COURT <b>Oakland Division, 1301 Clay Street, Suite 400S, Oakland, CA 94612</b>
PLAINTIFF <b>San Francisco Technology, Inc.</b>		DEFENDANT <b>Franklin Sports, Inc</b>
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 <b>4,801,144</b>		
2 <b>D323,369</b>		
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In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

<b>DECISION/JUDGEMENT</b>  <b>**See Attached Order of Transfer</b>
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CLERK <b>Richard W. Wieking</b>	(BY) DEPUTY CLERK <b>Valerie Kyono</b>	DATE <b>March 25, 2011</b>
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**Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to Commissioner**  
**Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy**

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NOV 17 2010

RICHARD W. WICKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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Kathryn G. Spelman, Esq. (Cal. Bar No. 154512)  
Daniel H. Fingerman, Esq. (Cal. Bar No. 229683)  
Mount & Stoelker, P.C.  
RiverPark Tower, Suite 1650  
333 West San Carlos Street  
San Jose CA 95110-2740  
Phone: (408) 279-7000  
Fax: (408) 998-1473  
Email: kspelman@mount.com, dfingerman@mount.com

Counsel for San Francisco Technology Inc.

U.S. District Court  
Northern District of California

San Francisco Technology Inc.

Plaintiff

vs.

Franklin Sports, Inc.

Defendant

Case No. **CV 10-05210**

Complaint

Demand For Jury Trial

PVT

MOUNT & STOELKER, P.C.  
RIVERPARK TOWER, SUITE 1650  
333 WEST SAN CARLOS STREET  
SAN JOSE, CALIFORNIA 95110-2740  
TELEPHONE (408) 279-7000

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1 Sports Authority, Dick's Sporting Goods, JCPenney, and Target.<sup>1</sup>

2 **Intradistrict Assignment**

3 7. This case is appropriate for District-wide assignment under Civil Local Rule 3-2(c)  
4 because the claims in this Complaint arise under 35 U.S.C. § 292, which is codified with the patent  
5 statutes.

6 **Franklin Sport's False Marking**

7 8. SF Tech incorporates by reference all above allegations.

8 9. Upon information and belief, Franklin Sports makes and sells many types of products,  
9 including the SX Street Extreme Pro Street Hockey "Roll-A-Puck" (the "Accused Product").

10 10. Franklin Sports causes or contributes to the marking and advertising of products with  
11 the U.S. Patent Nos. 4,801,144 and D323,369, including, but not limited to, the Accused Product.

12 11. U.S. Patent No. 4,801,144, entitled "Hockey puck", issued on January 31, 1989. U.S.  
13 Patent No. D323,369, also entitled "Hockey puck", issued on January 21, 1992.

14 12. Franklin Sports individually marks the Accused Product: "US Pat. 4,801,144", US  
15 Pat. D-323369", and "Canadian Pat 62392."

16 13. On its website, Franklin Sports advertises the Accused Product as including the  
17 "Patented ROLL-A-PUCK design."<sup>2</sup> The web page dedicated to the Accused Product depicts four  
18 units of the Accused Product. On two of the pucks, the words "US PATENT NUMBER 4801144"  
19 are clearly visible. Franklin Sports designed this advertisement in a manner that makes this marking  
20 easily visible.

21 14. U.S. Patent Nos. 4,801,144 and D323,369 are expired patents. Upon information and  
22 belief, U.S. Patent No. 4,801,144 expired no later than September 2, 2007. Upon information and  
23 belief, U.S. Patent No. D323,369 expired no later than January 22, 2006.

24 15. Franklin Sport's falsely marked products are being sold in 2010 with such false  
25 markings, after the expiration of U.S. Patent Nos. 4,801,144 and D323,369.

26 16. Franklin Sports is a sophisticated company and has many years of experience applying  
27 for, obtaining, and maintaining patents. Franklin Sports also has extensive experience manufacturing  
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<sup>1</sup> <http://www.franklinsports.com/fsm/b2c/Franklin-Sports-Retailers.htm>

<sup>2</sup> <http://www.franklinsports.com/fsm/b2c/streethockey/2010/12241.html>

1 products and either marking or not marking them with words or numbers indicating that such  
2 products are protected by patents or pending applications.

3 17. Upon information and belief, Franklin Sports (including Franklin Sports' patent  
4 counsel) knew or should have known that the term of U.S. Patent Nos. 4,801,144 and D323,369  
5 expired no later than their expiration dates.

6 18. Franklin Sports is no longer paying maintenance fees to the United States Patent and  
7 Trademark Office to maintain U.S. Patent No. 4,801,144.

8 19. Upon information and belief, Franklin Sports knew or should have known that U.S.  
9 Patent Nos. 4,801,144 and D323,369 had already expired at the same time Franklin Sports was  
10 marking and advertising products with U.S. Patent Nos. 4,801,144 and D323,369.

11 20. Franklin Sports knows, or at least reasonably should know, that U.S. Patent Nos.  
12 4,801,144 and D323,369 do not protect the Accused Product, or any products whatsoever.

13 21. Franklin Sports could have no reasonable belief that it was proper to mark and  
14 advertise products with the numbers of the expired U.S. Patent Nos. 4,801,144 and D323,369, and the  
15 false marking was done with intent to deceive the public by, including, but not limited to, misusing  
16 its patent rights to extend the term of its patents and inhibiting competition.

17 22. For at least the reasons set forth herein, Franklin Sports has wrongfully and illegally  
18 advertised patent rights which it does not possess, and, as a result, has likely benefited in at least  
19 maintaining its market share in the marketplace.

20 23. For at least the reasons set forth herein, Franklin Sports has wrongfully and illegally  
21 advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of  
22 its Accused Product to be inflated above normal market levels, and has caused the public to face  
23 inflated prices for its products.

24 24. The public deception, and/or competitive harm caused by each of Franklin Sports'  
25 false markings has and continues to harm the United States and the public, including relator SF Tech,  
26 a representative of the public incurring the cost and time associated with this enforcement.

27 **Demand For Judgment**

28 SF Tech demands judgment against Franklin Sports, as follows:

MOUNT & STOELKER, P.C.  
RIVERPARK TOWER, SUITE 1650  
333 WEST SAN CARLOS STREET  
SAN JOSE, CALIFORNIA 95110-2740  
TELEPHONE (408) 279-7000

1. A declaration that Franklin Sports violated 35 U.S.C. § 292.
2. An accounting of the number, sales, and revenue of any falsely marked articles not presented at trial.
3. A civil fine of \$500 for each offense — half paid to the U.S., and half paid to SF Tech.
4. Costs, including attorney fees.
5. A finding that this is an exceptional case.
6. Any other relief the court deems appropriate.

**Demand For Jury Trial**

SF Tech demands a jury trial on all issues so triable.

Date: November 17, 2010

Mount & Stoelker, P.C.,

  
Counsel for San Francisco Technology Inc.

MOUNT & STOELKER, P.C.  
RIVERPARK TOWER, SUITE 1650  
333 WEST SAN CARLOS STREET  
SAN JOSE, CALIFORNIA 95110-2740  
TELEPHONE (408) 279-7000

1 HOWARD A. SLAVITT (State Bar # 172840)  
2 COBLENTZ, PATCH, DUFFY & BASS, LLP  
3 One Ferry Building, Suite 200  
4 San Francisco, CA 94111-4213  
5 Telephone: (415) 391-4800  
6 Facsimile: (415) 989-1663  
7 E-mail: has@cpdb.com

8 MICHAEL A. ALBERT (admitted pro hac vice)  
9 GERALD B. HRYCYSZYN (State Bar # 227814)  
10 WOLF, GREENFIELD & SACKS, P.C.  
11 600 Atlantic Avenue  
12 Boston, MA 02210-2206  
13 Telephone: 617-646-8000  
14 Facsimile: 617-646-8646  
15 E-mail: malbert@wolfgreenfield.com  
16 ghrycyszyn@wolfgreenfield.com

17 Attorneys for Defendant  
18 Franklin Sports, Inc.

19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA  
21 OAKLAND DIVISION

22 SAN FRANCISCO TECHNOLOGY, INC.

23 Plaintiff,

24 vs.

25 FRANKLIN SPORTS, INC.

26 Defendant.

Case No. C10-05210 PJH

**STIPULATION OF TRANSFER  
AND ORDER**

Judge: Hon. Phyllis J. Hamilton

1 Plaintiff San Francisco Technology, Inc. ("SF Tech") and Defendant Franklin Sports, Inc.  
2 ("Franklin"), by and through their respective counsel, jointly stipulate as follows.

3 WHEREAS Franklin filed a motion seeking dismissal of SF Tech's claims against  
4 Franklin pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6), and, in the alternative, to transfer this  
5 action to the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. §  
6 1404(a) (D.I. 19).

7 WHEREAS SF Tech does not oppose Franklin's request to transfer venue to the District of  
8 Massachusetts.

9 NOW THEREFORE, IT IS HEREBY STIPULATED by and between counsel for the  
10 undersigned parties as follows:

- 11 1. The court may transfer this case to the United States District Court for the District of  
12 Massachusetts; and  
13 2. Franklin's Motion to Dismiss is deferred for ruling by the District of Massachusetts.  
14

15 **SIGNATURES**

16 In accordance with General Order 45.X.B., Gerald B. Hryczyn, counsel for Franklin,  
17 attests that each other signatory listed below has concurred in this filing.  
18

19 Date: March 23, 2011

Mount, Spelman & Fingerman, P.C.,

/s/ Daniel H. Fingerman

Counsel for San Francisco Technology, Inc.

21 Date: March 23, 2011

Wolf, Greenfield & Sacks, P.C.

/s/ Gerald B. Hryczyn

Counsel for Franklin Sports Inc.

24 PURSUANT TO STIPULATION, IT IS SO ORDERED. This case will be transferred to the  
25 District of Massachusetts and the Motion to Dismiss deferred for ruling by the District of  
26 Massachusetts.

27 Dated: 3/23/11

28 HON. PHYLLIS J. HAMILTON  
United States District Court

